

Exhibit B

CONFIDENTIAL - ATTORNEY'S EYES ONLY

Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

THRESHOLD ENTERPRISES LTD, a
Delaware corporation,

Plaintiff,

vs.

No. 5:22-cv-06483-PCP

LIFEFORCE DIGITAL INC., a
Delaware corporation,
Defendant.

_____ /

Confidential - Attorney's Eyes Only

DEPOSITION OF BARRY SUGARMAN

Taken before Kaylin Hoag

CSR No. 14267

December 14, 2023

CONFIDENTIAL - ATTORNEY'S EYES ONLY

Page 2	Page 4
<p>1 INDEX</p> <p>2 PAGE</p> <p>3 EXAMINATION BY MR. SPATZ 6</p> <p>4 EXAMINATION BY MR. AGARWAL 193</p> <p>5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 PAGE</p> <p>9 DEFENDANTS'</p> <p>10 Exhibit 218 Lifeforce Digital Inc.'s</p> <p>Notice of Deposition of</p> <p>11 Threshold Enterprises LTD 9</p> <p>12 Exhibit 219 Literature for Life Force</p> <p>Multiple 40</p> <p>13</p> <p>Exhibit 220 Literature for Life Force</p> <p>14 Multiple 43</p> <p>15 Exhibit 221 Literature for Life Force</p> <p>Multiple 46</p> <p>16</p> <p>Exhibit 222 Literature for Life Force</p> <p>17 Multiple 47</p> <p>18 Exhibit 223 shopsourcenaturals.com</p> <p>search page depicting</p> <p>19 7-Keto DHEA Metabolite 86</p> <p>20 Exhibit 224 Threshold Enterprises</p> <p>Selling & Marketing Expenses 104</p> <p>21</p> <p>Exhibit 225 Threshold Enterprises</p> <p>22 financial report 2016-2023 106</p> <p>23 Exhibit 226 Revenue report for the</p> <p>Life Force product line</p> <p>24 2204-2023 107</p> <p>25</p>	<p>1 Exhibit 238 Trademark Agreement between</p> <p>Threshold Enterprises, Ltd.</p> <p>2 and Sterling-Rice Group 174</p> <p>3 Exhibit 239 Coexistence Agreement between</p> <p>Threshold Enterprises Ltd.</p> <p>4 and LifeForce Devices Inc. 178</p> <p>5 Exhibit 240 Agreement between Threshold</p> <p>Enterprises Ltd. and Eastern</p> <p>6 Currents Distributing, Ltd. 180</p> <p>7 Exhibit 241 Agreement between Threshold</p> <p>Enterprises Ltd. and Infinite</p> <p>8 Labs, LLC 183</p> <p>9 Exhibit 242 Agreement between Threshold</p> <p>Enterprises Ltd. and Tribavus</p> <p>10 Enterprises, LLC 183</p> <p>11 Exhibit 243 Agreement between Threshold</p> <p>Enterprises Ltd. and</p> <p>12 Michael L. Miller 187</p> <p>13 Exhibit 244 Agreement between Threshold</p> <p>Enterprises Ltd. and</p> <p>14 Beata Seubert 190</p> <p>15 Exhibit 245 Agreement between Threshold</p> <p>Enterprises Ltd. and</p> <p>16 Onnit Labs 190</p> <p>17 Exhibit 246 Agreement between Threshold</p> <p>Enterprises Ltd. and Alltech 191</p> <p>18</p> <p>Exhibit 247 Agreement between Threshold</p> <p>19 Enterprises Ltd. and</p> <p>Metin Deniz 191</p> <p>20</p> <p>Exhibit 248 Agreement between Threshold</p> <p>21 Enterprises Ltd. and</p> <p>New Chapter 192</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 Exhibit 227 Financial report showing</p> <p>yearly revenue for the Life</p> <p>2 Force product line and</p> <p>monthly revenues for 2021,</p> <p>3 2022 and year to date 2023 109</p> <p>4 Exhibit 228 Threshold Enterprises LTD's</p> <p>Amended Response to Lifeforce</p> <p>5 Digital, Inc.'s First Set</p> <p>of Interrogatories to Plaintiff</p> <p>6 Threshold Enterprises LTD 112</p> <p>7 Exhibit 229 E-mail correspondence from</p> <p>Barry Sugarman to</p> <p>8 Wg@lifeforce.net 125</p> <p>9 Exhibit 230 E-mail correspondence between</p> <p>Monty Agarwal and David Hurley 130</p> <p>10</p> <p>Exhibit 231 E-mail correspondence between</p> <p>11 Monty Agarwal and David Hurley 132</p> <p>12 Exhibit 232 Coexistence and Consent to Use</p> <p>and Register Agreement 143</p> <p>13</p> <p>Exhibit 233 Document reflecting the top</p> <p>14 50 Source Natural products</p> <p>from 2011 to 2022 161</p> <p>15</p> <p>Exhibit 234 Trademark Coexistence</p> <p>16 Agreement between</p> <p>Threshold Enterprises Ltd. and</p> <p>17 Life Force Wellness LLC 164</p> <p>18 Exhibit 235 September 17, 2021 letter</p> <p>to Justin Crayton,</p> <p>19 Legalzoom Legal Services,</p> <p>from Rachel Chanin 168</p> <p>20</p> <p>Exhibit 236 Trademark Agreement between</p> <p>21 Threshold Enterprises Ltd. and</p> <p>Astec, Ltd. 170</p> <p>22</p> <p>Exhibit 237 Trademark Agreement between</p> <p>23 Threshold Enterprises Ltd. and</p> <p>Portals Pharma, Inc. 171</p> <p>24</p> <p>25</p>	<p>1 DEPOSITION OF BARRY SUGARMAN</p> <p>2</p> <p>3</p> <p>4 BE IT REMEMBERED, that pursuant to Notice, and on</p> <p>5 the 14th day of December 2023, commencing at the hour of</p> <p>6 9:07 a.m., in the offices of Regus, 2033 Gateway</p> <p>7 Boulevard, 6th Floor, San Jose, California, before me,</p> <p>8 KAYLIN HOAG, a Certified Shorthand Reporter, State of</p> <p>9 California, personally appeared BARRY SUGARMAN, produced</p> <p>10 as a witness in said action, and being by me first duly</p> <p>11 sworn, was thereupon examined as a witness in said cause.</p> <p>12 ---oOo---</p> <p>13 APPEARANCES</p> <p>14 For the Plaintiff:</p> <p>15 MONTY AGARWAL</p> <p>RACHEL CHANIN</p> <p>16 Vallejo Antolin Agarwal Kanter LLP</p> <p>3021 Citrus Circle, Suite 220</p> <p>17 Walnut Creek, California 94598</p> <p>(925) 951-6970</p> <p>magarwal@vaakllp.com</p> <p>18</p> <p>19 For the Defendant:</p> <p>20 GEORGE SPATZ (pro hac vice)</p> <p>MANON BURNS</p> <p>21 Amin Talati Wasserman, LLP</p> <p>549 W Randolph Street, Suite 400</p> <p>22 Chicago, Illinois 60661</p> <p>(312) 466-1033</p> <p>23 gspatz@amintalati.com</p> <p>manon@amintalati.com</p> <p>24</p> <p>25</p>

CONFIDENTIAL - ATTORNEY'S EYES ONLY

<p style="text-align: right;">Page 6</p> <p>1 BARRY SUGARMAN</p> <p>2 sworn as a witness</p> <p>3 testified as follows:</p> <p>4</p> <p>5 EXAMINATION BY MR. SPATZ:</p> <p>6 Q. Could you please state and spell your name for</p> <p>7 the record?</p> <p>8 A. Barry Sugarman, B-A-R-R-Y S-U-G-A-R-M-A-N.</p> <p>9 Q. Mr. Sugarman, have you been deposed before?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. How many times?</p> <p>12 A. More than five.</p> <p>13 Q. More than five. What was the most recent</p> <p>14 deposition?</p> <p>15 A. Boy, I'm not sure. It's been a little while.</p> <p>16 It was a litigation for Threshold I think.</p> <p>17 Q. Do you know what the subject matter of the</p> <p>18 litigation was?</p> <p>19 A. Yeah. It was a -- it was a lawsuit, a personal</p> <p>20 injury lawsuit for a particular product, Chlorella.</p> <p>21 Someone was alleging injury and they deposed a group of</p> <p>22 us.</p> <p>23 Q. Have the approximately more than five</p> <p>24 depositions all been in connection with Threshold?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 8</p> <p>1 your lawyer instructs you not to answer a question after</p> <p>2 that objection, you still need to give a response.</p> <p>3 Understood?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then is there any reason you would</p> <p>6 not be able to give truthful testimony today? Not</p> <p>7 feeling well, medications, anything that would prohibit</p> <p>8 you from giving truthful testimony?</p> <p>9 A. No. I feel fine.</p> <p>10 Q. Okay. And then finally, if you need a break,</p> <p>11 just let me know. If you, you know, need to use the</p> <p>12 restroom, just stand up stretch your legs, anything, let</p> <p>13 me know. I'll finish whatever question or line of</p> <p>14 questions I'm on and we can take a break. Okay?</p> <p>15 A. Yes.</p> <p>16 Q. Without getting into the substance of any</p> <p>17 conversations with your attorneys, what did you do to</p> <p>18 prepare for your deposition today?</p> <p>19 A. I went over some records that I have and some</p> <p>20 briefing papers from the lawyers.</p> <p>21 Q. Do you recall any specific documents you</p> <p>22 referenced?</p> <p>23 A. Yes. There were specific documents prepared,</p> <p>24 and I looked at those. And also I looked at the</p> <p>25 interrogatory responses and the documents that were given</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. How many have been in connection with Threshold?</p> <p>2 A. It's been awhile. Maybe three or four.</p> <p>3 Q. Have you been deposed in any trademark cases on</p> <p>4 behalf of Threshold?</p> <p>5 A. Yes. I believe -- I believe there was a</p> <p>6 deposition in one case. I believe so. It's been quite</p> <p>7 awhile.</p> <p>8 Q. Do you remember what the trademark or the</p> <p>9 product was in that case?</p> <p>10 A. I think it was the Life Force V case.</p> <p>11 Q. Okay. So since it's been awhile, I'll go</p> <p>12 through the ground rules of depositions again so we're on</p> <p>13 the same page.</p> <p>14 You know, first, the conversation here today is</p> <p>15 being transcribed. So we have to make sure we don't</p> <p>16 speak over each other. So I'll do my best and make sure</p> <p>17 I let you finish before I speak, and if you could let me</p> <p>18 finish before you speak, I'd appreciate that. Okay?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. The other is, we need all verbal</p> <p>21 responses. So nodding of the head, shakes of the head</p> <p>22 doesn't translate. So if you can give yes or no answers,</p> <p>23 that would be appreciated. Okay?</p> <p>24 A. Yes.</p> <p>25 Q. At time to time your lawyer may object. Unless</p>	<p style="text-align: right;">Page 9</p> <p>1 to me to prepare.</p> <p>2 Q. Did you speak with anyone else at Threshold</p> <p>3 specifically in preparation for the deposition?</p> <p>4 A. I spoke with my two attorneys, and I did meet</p> <p>5 with Mr. Goldberg yesterday with the attorney.</p> <p>6 Q. Did you have any conversations with Mr. Goldberg</p> <p>7 where the attorney wasn't present?</p> <p>8 A. No. Not regarding the case, no.</p> <p>9 Q. You understand the testimony you're giving today</p> <p>10 is in connection with a lawsuit that Threshold</p> <p>11 Enterprises has brought against Lifeforce Digital, Inc.</p> <p>12 related to alleged infringement of the Life Force</p> <p>13 trademark?</p> <p>14 A. That's my understanding.</p> <p>15 (Defendants' Exhibit No. 218 marked</p> <p>16 for Identification.)</p> <p>17 BY MR. SPATZ:</p> <p>18 Q. Mr. Sugarman, I've handed you what's been marked</p> <p>19 as Exhibit 218. This is a notice of deposition for</p> <p>20 Threshold Enterprises. If you turn to page 2, there's a</p> <p>21 number of topics listed for examination. Are you</p> <p>22 familiar with this list of topics?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And do you understand that you've been</p> <p>25 designated as the corporate representative to testify on</p>

CONFIDENTIAL - ATTORNEY'S EYES ONLY

<p style="text-align: right;">Page 10</p> <p>1 behalf of Threshold with respect to these topics?</p> <p>2 A. Yes.</p> <p>3 MR. AGARWAL: Counsel, I just note that we did</p> <p>4 -- we are offering Mr. Sugarman for all topics except for</p> <p>5 one topic which relates to -- which has been split in</p> <p>6 time, and that is the topic number...</p> <p>7 MR. SPATZ: Yeah, I understand. For the oral</p> <p>8 agreement with Life Force International around 1996.</p> <p>9 MR. AGARWAL: And so he will be designee for</p> <p>10 essentially kind of...</p> <p>11 MR. SPATZ: Everything but that.</p> <p>12 MR. AGARWAL: Yeah.</p> <p>13 BY MR. SPATZ:</p> <p>14 Q. Can you give me a brief background of your</p> <p>15 education? What's the highest degree you've achieved?</p> <p>16 A. I have a bachelor of science in engineering from</p> <p>17 Cal State Northridge.</p> <p>18 Q. And when did you get your BS?</p> <p>19 A. 1982.</p> <p>20 Q. And after you got your BS in engineering, what</p> <p>21 did you do for employment or did you go onto any other</p> <p>22 education?</p> <p>23 A. I had my own business.</p> <p>24 Q. So right around 1982 you started your own</p> <p>25 business?</p>	<p style="text-align: right;">Page 12</p> <p>1 also then went into consulting.</p> <p>2 Q. And how long were you with Diverstech?</p> <p>3 A. It's still.</p> <p>4 Q. Still?</p> <p>5 A. Today.</p> <p>6 Q. And you do your consulting through Diverstech?</p> <p>7 A. Yes.</p> <p>8 Q. And are you a consultant to Threshold through</p> <p>9 Diverstech?</p> <p>10 A. Technically, yes, but I'm considered an</p> <p>11 executive there. That's my primary client.</p> <p>12 Q. Do you dedicate full-time to Threshold?</p> <p>13 A. Yes. It's -- yes. Many hours.</p> <p>14 Q. And then you're a 1099 independent contractor or</p> <p>15 do you have an employee relationship with Threshold?</p> <p>16 A. 1099.</p> <p>17 Q. And when did you start consulting for Threshold?</p> <p>18 A. In 1994, late 1994.</p> <p>19 Q. And what was the nature of your initial</p> <p>20 consulting with Threshold?</p> <p>21 A. Initially I was brought in to assist with</p> <p>22 building a quality control department, testing, and</p> <p>23 building a lab and helping in manufacturing after that.</p> <p>24 And then I went on to R and D and some of the other</p> <p>25 areas.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. No. Started in November of '78.</p> <p>2 Q. Okay. And what was that nature of that</p> <p>3 business?</p> <p>4 A. My father and I owned a pharmaceutical,</p> <p>5 manufacturing, and distribution company.</p> <p>6 Q. What's the name of the company?</p> <p>7 A. The manufacturing company was Liqui-Farm, Inc.,</p> <p>8 the distribution company was United States Trading Corp.,</p> <p>9 and the rep company was Chem-Farm Limited.</p> <p>10 Q. And what were your responsibilities at the</p> <p>11 pharmaceutical company?</p> <p>12 A. I was the VP of marketing and sales at the</p> <p>13 distribution company, I was the president of the</p> <p>14 manufacturing company and had numerous responsibilities</p> <p>15 in both.</p> <p>16 Q. And then, you know, a couple years later you</p> <p>17 started at Cal State Northridge. Were you full-time then</p> <p>18 or did you split between working and going to school?</p> <p>19 A. The latter; split between working and school.</p> <p>20 Q. Okay. And how long did you work at the</p> <p>21 pharmaceutical companies?</p> <p>22 A. From '78 to the early 1990s, roughly '92 or '-3.</p> <p>23 Q. And where did you go after -- in 1992/1993?</p> <p>24 A. I started my Diverstech business which started</p> <p>25 off in distribution of goods to government agencies and</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Do you have a specific scope of responsibility</p> <p>2 at Threshold or do they give you ad hoc projects or</p> <p>3 initiatives?</p> <p>4 A. Both.</p> <p>5 Q. And you know, currently what is your scope of</p> <p>6 responsibility?</p> <p>7 A. Regulatory affairs and corporate matters and</p> <p>8 technical matters.</p> <p>9 Q. Who do you report to at Threshold?</p> <p>10 A. The president and owner.</p> <p>11 Q. That's Ira Goldberg?</p> <p>12 A. Correct.</p> <p>13 Q. Do you have anybody that reports to you at</p> <p>14 Threshold?</p> <p>15 A. Well, many people, many departments. I'm the --</p> <p>16 we have an executive team, and I'm on the executive team.</p> <p>17 So the people who are below the executive team all report</p> <p>18 up to. So there's -- my primary departments that I'm</p> <p>19 involved with are quality, R and D, legal regulatory.</p> <p>20 Those are the three primary ones. And sales and</p> <p>21 marketing.</p> <p>22 So I'm on a team. The executive team or</p> <p>23 executive team members like myself participate in</p> <p>24 meetings with those departments.</p> <p>25 Q. And who are the people that are on the executive</p>

CONFIDENTIAL - ATTORNEY'S EYES ONLY

<p style="text-align: right;">Page 14</p> <p>1 team?</p> <p>2 A. Myself, Ira Goldberg, Brian Cayton, and then</p> <p>3 depending on -- there could be other team members. So</p> <p>4 the sales executive team has some of the managers on</p> <p>5 that. But those are the main -- myself, Brian Cayton,</p> <p>6 Ira Goldberg are the main. Carl Weissman is the chief of</p> <p>7 operations. Those are the main executive team members.</p> <p>8 And Ira Goldberg.</p> <p>9 Q. Do you have a title at Threshold?</p> <p>10 A. It's regulatory affairs. Regulatory, corporate,</p> <p>11 and technical affairs is what I use.</p> <p>12 Q. Are you familiar with the title of director of</p> <p>13 corporate development?</p> <p>14 A. That's Brian's title.</p> <p>15 Q. Oh, that's Brian's title. Got it.</p> <p>16 Have you been referred to as a technical</p> <p>17 consultant to the company?</p> <p>18 A. Could you repeat the question?</p> <p>19 Q. I said, do they refer to you as a technical</p> <p>20 consultant to the company?</p> <p>21 A. That's part of my duties.</p> <p>22 Q. As part of the lawsuit, counsel produced</p> <p>23 documents to us. Were you involved in the collection of</p> <p>24 documents in connection with this lawsuit?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 doctors and a pharmacy brand, Horizon Naturals and</p> <p>2 Genexis Nutraceuticals. Horizon was a pharmacy brand and</p> <p>3 Genexis is a doctor's brand. Those two brands are</p> <p>4 incidental. They're on a per special order type basis</p> <p>5 now. They're not really actively marketed.</p> <p>6 Q. So the two primary product lines that Threshold</p> <p>7 puts out is the Source Naturals branded product line and</p> <p>8 the Planetary Herbals branded product line?</p> <p>9 A. Correct.</p> <p>10 Q. And then I understand Threshold is a</p> <p>11 distribution business as well?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And can you describe that in a general</p> <p>14 level, please?</p> <p>15 A. They have 300, approximately 300 brands of other</p> <p>16 manufacturers that they sell on a wholesale basis to</p> <p>17 customers, to retail customers.</p> <p>18 Q. Do they sell any of those third-party brands</p> <p>19 directly to consumers?</p> <p>20 A. No.</p> <p>21 Q. And speaking of the Source Naturals brand of</p> <p>22 product, what's the scope of Source Naturals products</p> <p>23 that Threshold puts out?</p> <p>24 A. We have quite a number of products, hundreds of</p> <p>25 products. Over -- over -- it was up to maybe a thousand</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. And what did you do to search for</p> <p>2 documents?</p> <p>3 A. Well, many things. I did -- I contacted</p> <p>4 departments who I know have those documents. I searched</p> <p>5 my own records. The lawyers had records. I physically</p> <p>6 looked in boxes for records and file cabinets in my</p> <p>7 office at Threshold. I -- for sales figures I contacted</p> <p>8 Brian and direct with the sales data team.</p> <p>9 Q. And does Threshold regularly use e-mail for</p> <p>10 communication?</p> <p>11 A. Yes.</p> <p>12 Q. And did you search e-mail for documents?</p> <p>13 A. I did.</p> <p>14 Q. Okay. And does Threshold have any other</p> <p>15 channels that it uses for communication, for instance, a</p> <p>16 chat or a Slack type functions?</p> <p>17 A. We use Teams, but it's only recent and most</p> <p>18 people don't use chat for that. They use e-mail at</p> <p>19 Threshold primarily for documents and things.</p> <p>20 Q. Okay. Can you tell me just in general terms a</p> <p>21 little bit of the scope of Threshold's businesses, what's</p> <p>22 its primary activities?</p> <p>23 A. Threshold is a manufacturer and a distributor.</p> <p>24 It manufactures dietary supplements, primarily under two</p> <p>25 brands, Source Naturals and Planetary Herbals. It has a</p>	<p style="text-align: right;">Page 17</p> <p>1 different products. Now it's cut back. It's somewhere</p> <p>2 north of 500 products.</p> <p>3 Q. Yeah, I saw a reference to 750 products in 25</p> <p>4 health categories. Does that sound about right?</p> <p>5 A. That's about right, yeah.</p> <p>6 Q. And what health categories does Threshold target</p> <p>7 with the Source Natural branded products?</p> <p>8 A. Well, many, many, many categories. Immunity is</p> <p>9 one primary one, immune health; and there's many</p> <p>10 multivitamins, individual vitamins, individual</p> <p>11 supplements for specific uses, amino acids, men's health,</p> <p>12 women's health, sexual health. Numerous categories.</p> <p>13 Q. I'd like to refer you to an exhibit that's been</p> <p>14 marked as Exhibit 201.</p> <p>15 A. Okay.</p> <p>16 Q. Are you familiar with this document as a news</p> <p>17 and product letter from April 2022?</p> <p>18 A. I don't know if I've seen this specific one</p> <p>19 recently, but it's a Threshold newsletter. We send</p> <p>20 newsletters out monthly.</p> <p>21 Q. And who do the newsletters go to?</p> <p>22 A. These -- this is a wholesale newsletter. It</p> <p>23 would go to retailers who are reselling our product.</p> <p>24 Q. If I can direct your attention to page 14 of the</p> <p>25 newsletter. It has the Bates number Threshold 16.</p>

5 (Pages 14 - 17)

CONFIDENTIAL - ATTORNEY'S EYES ONLY

<p style="text-align: right;">Page 154</p> <p>1 moving into any additional channels as a result of this 2 agreement? 3 MR. AGARWAL: Object to the form of the 4 question. 5 THE WITNESS: I believe I answered that already 6 but I'll answer it again. To the extent that this 7 agreement provides restrictions related to the 8 interference of the use or the confusion of the parties 9 to the agreement that we have before us, that would be a 10 restriction. It could present itself in different ways. 11 In our 20 years prior to this agreement, in our 12 I guess 14 years subsequent to this agreement, we have 13 not experienced a complaint from Doctor Signature or Life 14 Force International or directly experienced any 15 allegation of interference or confusion. 16 BY MR. SPATZ: 17 Q. What would interfere with Life Force 18 International's use? 19 MR. AGARWAL: Object to the form of the 20 question. 21 THE WITNESS: Something that would interfere 22 with or cause a complaint or a confusion by one of the 23 parties to this agreement. 24 BY MR. SPATZ: 25 Q. So it's your understanding that interference</p>	<p style="text-align: right;">Page 156</p> <p>1 International's commercial activities? 2 MR. AGARWAL: Object to the form of the 3 question. 4 But you can answer. But I don't know what 5 commercial activities means, but go ahead. 6 THE WITNESS: I haven't spoken to Life Force 7 International. I'm not aware of every single activity 8 that they undertake, but I've never seen a complaint from 9 them or any of our salespeople or marketing people 10 regarding something that they marketed with respect to 11 Life Force. 12 BY MR. SPATZ: 13 Q. And in a similar area, are you aware of any 14 confusion from end customers between Threshold activities 15 and Life Force International's activities? 16 A. Could you repeat the question, please? 17 Q. Certainly. I think you referenced your sales 18 reps, your marketing people. I'm asking, specifically 19 with respect to end consumers, are you aware of any 20 confusion from end consumers regarding Threshold's 21 commercial activities and Life Force International's 22 commercial activities? 23 A. I'm not aware of any specific complaint, no. 24 Q. Okay. 25 A. But I'll say again, I'm not aware of all Life</p>
<p style="text-align: right;">Page 155</p> <p>1 would require a complaint or confusion regarding one of 2 the parties' use of the mark? 3 A. No. You mischaracterize your own question. You 4 asked me for an example. I gave you one example. It 5 could be -- there could be numerous ways that it could 6 present itself. With the Life Force V case they came to 7 a trade show that we were at and we saw them and there 8 were complaints. So there could be any number of ways in 9 any number of channels. That was just an example. You 10 asked for an example. 11 Q. And in that instance you just described with 12 Life Force V, you believe that that caused confusion, 13 them attending a trade show? 14 A. I know that it did. 15 Q. Okay. Just so I'm clear, I believe you 16 testified to this, but let me ask it. Are you aware of 17 any instances of confusion between Threshold and Life 18 Force International? 19 A. No. 20 Q. Are you aware of any confusion between 21 Threshold's products and Life Force International's 22 products? 23 A. No. 24 Q. Are you aware of any confusion between 25 Threshold's commercial activities and Life Force</p>	<p style="text-align: right;">Page 157</p> <p>1 Force International activities. They may have activities 2 that I'm not aware of. I'm only speaking with regard to 3 Life Force. 4 Q. Okay. Similarly, are you aware of any instances 5 of confusion between Threshold and the defendant, 6 Lifeforce Digital, from end consumers? 7 A. I haven't had any specific complaints, but I've 8 gone on Google myself in the last few days and I put in 9 Life Force in various different presentations and I've 10 noticed that the defendant's images, website, and 11 information come up right alongside ours. 12 Q. Okay. Are you aware of any confusion from 13 consumers regarding Threshold and Lifeforce Digital? 14 A. We don't speak to consumers directly unless they 15 call in. So there may be confusion. I would say there's 16 a likelihood of confusion based on what I'm seeing. I 17 haven't -- 18 Q. Are you aware of any actual confusion, instances 19 of actual confusion between Threshold and Lifeforce 20 Digital? 21 A. I personally have never seen a complaint like 22 that, but I think it's highly likely that there would be 23 consumer confusion because of what I saw just as recently 24 as yesterday or the day before. 25 Q. I'm sorry. I'm not asking about likely</p>

Page 196

3 Q. Okay. And in the -- we also looked at
4 Exhibit 232, which you will remember is the agreement
5 between Threshold and Doctors Signature, also that does
6 business as Life Force International. When you -- when
7 Threshold entered into this agreement, how many years of
8 actual real world experience did it have coexisting with
9 Doctors Signature?
10 A. 20 years.
11 MR. AGARWAL: Thank you. I have no further
12 questions.
13 MR. SPATZ: I have no further questions.
14 THE REPORTER: Monty, would you like a copy?
15 MR. AGARWAL: I would. Standard delivery would
16 be fine.
17 MR. SPATZ: Same with us.
18 (Whereupon, the deposition concluded at 4:13
19 p.m.)
20
21
22
23
24
25

Kay Hoag

024.

KAYLIN HOAG, CSR NO. 14267
State of California